

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

BRUCE RICHARD SENATOR,  
  
Plaintiff,  
  
v.  
  
KATHLEEN ALLISON, *et al.*,  
  
Defendants.

Case No. 1:22-cv-00144-JLT-BAK(BAM) (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS, DENYING  
PLAINTIFF'S MOTION FOR LEAVE TO  
PROCEED *IN FORMA PAUPERIS*, AND  
DISMISSING CASE

(Doc. 2)

Clerk of Court to close the case.

The assigned magistrate judge issued findings and recommendations for the Plaintiff's application to proceed *in forma pauperis* be denied. (Doc. 10.) The Court found that Plaintiff had at least three "strikes" under section 1915(g), and Plaintiff failed to show that he is in imminent danger of serious physical injury. (*Id.*) Plaintiff filed objections to the findings and recommendations. (Doc. 11.) In support of Plaintiff's twelve-page objections, Plaintiff filed ninety pages of exhibits. The objections summarize the allegations in the complaint.

Plaintiff argues that he has suffered an ongoing threat of serious physical injury and death, stemming from his legal work during a prior term of imprisonment with the California Department of Corrections and Rehabilitation from December 2007 and June 18, 2018. According to Plaintiff, the retaliation began during his second term of imprisonment at Wasco State Prison in January 2020, where he was falsely designated as part of a security threat group,

1 threatened with a suggestion of murder, and denied medical examination.

2 Plaintiff alleges that the mistreatment continued at the Substance Abuse Treatment  
3 Facility at Corcoran, beginning in March 2020, with threats, fabricated rules violations, denial of  
4 medical examinations and fabricated medical reports, and refusal of library officials refuse to  
5 grant him priority status. More significantly, Plaintiff alleges that prison officials engaged in  
6 ongoing “operation” to murder him by inciting his cellmates to harm him. Plaintiff alleges that  
7 he was attacked by his cellmates twice on the morning of June 24, 2021, to murder him. Plaintiff  
8 further alleges that August 20, 2021, Plaintiff was transferred to a different building, where two  
9 different inmates were tasked to kill him. Plaintiff contends, however, that he was “saved” by  
10 the camera surveillance system became active. On August 27, 2021, Plaintiff moved into a  
11 single-person cell in Short Tern Restricted Housing, where he has remained for self-protection.

12 Under these circumstances, even accepting Plaintiff’s allegations as true, Plaintiff has  
13 failed to show that he was in imminent danger of serious physical injury at the time he filed this  
14 action. Though Plaintiff may have been subjected to threats from correctional officers and  
15 violence at the hands of other inmates in 2020 and 2021, he was segregated from them and out of  
16 danger since August 27, 2021. Therefore, Plaintiff was out of danger when he filed his  
17 complaint on February 3, 2022, and he is precluded from proceeding *in forma pauperis* in this  
18 action. Thus, the Court **ORDERS** that:

- 19 1. The findings and recommendations issued on February 22, 2022, (Doc. 10) are  
20 adopted in full.
- 21 2. Plaintiff’s motion to proceed *in forma pauperis*, (Doc. 2), is **DENIED**; and
- 22 3. This action is **DISMISSED without prejudice** for refiling upon prepayment of  
23 the \$402.00 filing fee.

24  
25 IT IS SO ORDERED.

26 Dated: **March 24, 2022**

  
UNITED STATES DISTRICT JUDGE